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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
NEW YORK DIVISION**

Stefan Jeremiah,

Plaintiff,

v.

Corbett and Dullea Realty LLC,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Stefan Jeremiah ("*Plaintiff*"), by and through his undersigned counsel, for his Complaint against Defendant Corbett and Dullea Realty LLC ("*Defendant*") states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement and the violation of the DMCA for the removal of copyright management information.

2. Plaintiff herein creates photographic images and owns the rights to these images which Plaintiff licenses for various uses including online and print publications.

3. Defendant owns and operates a social media account on Twitter named

@cdrenyc (the “*TW Account*”).

4. Defendant owns and operates a social media account on Facebook named @cdrenyc (the “*FB Account*”) (the *TW Account* and *FB Account* are collectively referred to as the “*Accounts*”).

5. Defendant, without permission or authorization from Plaintiff actively copied, stored, and/or displayed Plaintiff’s Photograph on the *Accounts* and engaged in this misconduct knowingly and in violation of the United States copyright laws.

PARTIES

6. Plaintiff Stefan Jeremiah is an individual who is a citizen of the State of New Jersey and maintains a principal place of business in Essex County, New Jersey.

7. Upon information and belief, Defendant Corbett and Dullea Realty LLC, is a New York limited liability company with a principal place of business at 115 Broadway, 5th Floor, New York City in New York County, New York and is liable and responsible to Plaintiff based on the facts herein alleged.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

9. This Court has personal jurisdiction over Corbett and Dullea Realty LLC because it maintains its principal place of business in New York.

10. Venue is proper under 28 U.S.C. §1391(a)(2) because Corbett and Dullea Realty LLC does business in this Judicial District and/or because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

FACTS COMMON TO ALL CLAIMS

1 11. Plaintiff is a professional photographer by trade who is the legal and rightful
2 owner of photographs which Plaintiff licenses to online and print publications.

3 12. Plaintiff has invested significant time and money in building Plaintiff's
4 photograph portfolio.

5 13. Plaintiff has obtained active and valid copyright registrations from the United
6 States Copyright Office (the "*USCO*") which cover many of Plaintiff's photographs while many
7 others are the subject of pending copyright applications.

8 14. Plaintiff's photographs are original, creative works in which Plaintiff owns
9 protectable copyright interests.

10 15. Corbett and Dullea Realty LLC is the operator of the Accounts and is responsible
11 for their content.

12 16. The Accounts is a popular and lucrative commercial enterprise.

13 17. The Accounts are monetized in that it markets and promotes traffic to
14 Defendant's real estate business and, upon information and belief, Defendant profits from these
15 activities.

16 18. On April 25, 2016, Plaintiff authored a photograph of a tool shed listed for sale
17 in Brooklyn (the "*Photograph*"). A copy of the Photograph is attached hereto as Exhibit 1.

18 19. Plaintiff applied to the USCO to register the Photograph on or about July 8, 2016
19 under Application No. 1-3795354531.

20 20. The Photograph was registered by the USCO on July 8, 2016 under Registration
21 No. VA 2-010-109.

22 21. On April 11, 2022, Plaintiff first observed the Photograph on the Accounts in
23 two separate posts dated April 26, 2019. Copies of the screengrabs of the Accounts including
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the Photograph are attached hereto as Exhibit 2.

22. The Photograph was displayed at URLs:
<https://mobile.twitter.com/cdrenyc/status/725035455855624196> and
<https://www.facebook.com/profile/100068346995672/search/?q=tool%20shed>.

23. Without permission or authorization from Plaintiff, Defendant volitionally selected, copied, stored and/or displayed Plaintiff's copyright protected Photograph as is set forth in Exhibit "1" on the Accounts.

24. Upon information and belief, the Photograph was copied, stored and displayed without license or permission, thereby infringing on Plaintiff's copyrights (hereinafter the "*Infringement*").

25. The Infringement includes a URL ("*Uniform Resource Locator*") for a fixed tangible medium of expression that was sufficiently permanent or stable to permit it to be communicated for a period of more than a transitory duration and therefore constitutes a specific infringement.

26. The Infringement is an exact copy of the entirety of Plaintiff's original image that was directly copied and stored by Defendant on the Accounts.

27. Upon information and belief, Defendant takes an active and pervasive role in the content posted on its Accounts, including, but not limited to copying, posting, selecting, commenting on and/or displaying images including but not limited to Plaintiff's Photograph.

28. Upon information and belief, the Photograph was willfully and volitionally posted to the Accounts by Defendant.

29. Upon information and belief, Defendant is not registered with the United States Copyright Office pursuant to 17 U.S.C. §512.

1 30. Upon information and belief, Defendant engaged in the Infringement knowingly
2 and in violation of applicable United States Copyright Laws.

3 31. Upon information and belief, Defendant has the legal right and ability to control
4 and limit the infringing activities on its Accounts and exercised and/or had the right and ability
5 to exercise such right.

6 32. Upon information and belief, Defendant monitors the content on its Accounts.

7 33. Upon information and belief, Defendant has received a financial benefit directly
8 attributable to the Infringement.

9 34. Upon information and belief, the Infringement increased traffic to the Accounts
10 and, in turn, caused Defendant to realize an increase in its business revenues.

11 35. Upon information and belief, a large number of people have viewed the unlawful
12 copies of the Photograph on the Accounts.

13 36. Upon information and belief, Defendant at all times had the ability to stop the
14 reproduction and display of Plaintiff's copyrighted material.

15 37. Defendant's use of the Photograph, if widespread, would harm Plaintiff's
16 potential market for the Photograph.

17 38. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

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20 **FIRST COUNT**
21 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

22 39. Plaintiff repeats and incorporates by reference the allegations contained in the
23 preceding paragraphs, as though set forth in full herein.

24 40. The Photograph is an original, creative work in which Plaintiff owns valid
25 copyrights properly registered with the United States Copyright Office.

26 41. Plaintiff has not licensed Defendant the right to use the Photograph in any
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1 manner, nor has Plaintiff assigned any of its exclusive rights in the copyrights to Defendant.

2 42. Without permission or authorization from Plaintiff and in willful violation of
3 Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and illegally copied, stored,
4 reproduced, distributed, adapted, and/or publicly displayed works copyrighted by Plaintiff
5 thereby violating one of Plaintiff's exclusive rights in its copyrights.
6

7 43. Defendant's reproduction of the Photograph and display of the Photograph
8 constitutes willful copyright infringement. *Feist Publications, Inc. v. Rural Telephone Service*
9 *Co., Inc.*, 499 U.S. 340, 361 (1991).

10 44. Plaintiff is informed and believes and thereon alleges that the Defendant
11 willfully infringed upon Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S.
12 Code, in that they used, published, communicated, posted, publicized, and otherwise held out
13 to the public for commercial benefit, the original and unique Photograph of the Plaintiff without
14 Plaintiff's consent or authority, by using it in the infringing posts on the Accounts.
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16 45. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is
17 entitled to an award of actual damages and disgorgement of all of Defendant's profits
18 attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or,
19 in the alternative, at Plaintiff's election, an award for statutory damages against Defendant for
20 the infringement pursuant to 17 U.S.C. § 504(c).
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22 46. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court
23 in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and
24 costs pursuant to 17 U.S.C. § 505 from Defendant.

25 47. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is
26 entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17
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U.S.C. § 502.

SECOND COUNT

***(Falsification, Removal and Alteration of Copyright Management
Information 17 U.S.C. § 1202)***

48. Plaintiff repeats and incorporates, as though fully set forth herein, each and every allegation contained in the preceding paragraphs, as though set forth in full herein.

49. Upon information and belief, Defendant knew that Plaintiff created and held rights to the Photograph because, *inter alia*, the source of the Photograph that Defendant used to make its infringing copy specifically attributed the Photograph to Plaintiff by watermark or photo credit.

50. Upon information and belief, in its posts on the Accounts, Defendant credits “@nypost” and copied the Photograph from <https://nypost.com/2016/04/25/glorified-toolshed-listed-for-only-500k-in-brooklyn/> which contained a photograph credit below the Photograph stating “Stefan Jeremiah for New York Post” the owner and author of the Photograph. A copy of a screengrab of the original DMCA source website is annexed as Exhibit 3.

51. The photograph credit is copyright management information.

52. Upon information and belief, Defendant intentionally removed copyright management information related to the Photograph with the intent to induce, enable, facilitate, or conceal an infringement of Plaintiff’s rights under the Copyright Act. Specifically, Defendant purposefully failed to include the photo credit originally conveyed with the Photograph in order to mislead the public into believing that Defendant either owned the Photograph or had legitimately licensed it from the New York Post for use in the Infringement.

53. In addition, Defendant displayed the unauthorized copies of the Photograph

1 knowing the copyright management information had been removed.

2 54. Defendant's conduct violates 17 U.S.C. § 1202(a) and 1202(b).

3 55. Upon information and belief, Defendant's falsification, removal and/or alteration
4 of the aforementioned copyright management information was made without the knowledge or
5 consent of Plaintiff.
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7 56. Upon information and belief, the falsification, alteration and/or removal of said
8 copyright management information was made by Defendant intentionally, knowingly and with
9 the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyright in
10 the Photograph. Defendant also knew, or should have known, that such falsification, alteration
11 and/or removal of said copyright management information would induce, enable, facilitate, or
12 conceal their infringement of Plaintiff's copyright in the Photograph.
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14 57. Plaintiff has sustained significant injury and monetary damages as a result of
15 Defendant's wrongful acts as hereinabove alleged, and as a result of being involuntarily
16 associated with Defendant in an amount to be proven.

17 58. As a result of Defendant's violations of Title 17 of the U.S. Code, pursuant to
18 17 U.S.C. § 1203(c)(2), Plaintiff is entitled to an award of the actual damages suffered as a
19 result of the violation including any profits of the Defendant attributable to the violation or,
20 alternatively, Plaintiff may elect to recover from Defendant statutory damages pursuant to
21 17 U.S.C. § 1203(c)(3) for each violation of 17 U.S.C. § 1202.
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23 59. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court
24 in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and
25 costs pursuant to 17 U.S.C. § 1203(b)(4) and (5) from Defendants.
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JURY DEMAND

60. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

That the Court enters a judgment finding that Defendant has infringed upon Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 et seq. and award damages and monetary relief as follows:

- a. finding that Defendant infringed upon Plaintiff's copyright interest in the Photograph by copying and displaying without a license or consent;
- b. for an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant for the infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- c. for an award of actual damages or, in the alternative, statutory damages against each Defendant for each falsification or removal of copyright management information pursuant to 17 U.S.C. § 1202;
- d. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- e. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505 and/or 17 U.S.C. §1203(b)(4) and (5);
- f. for pre judgment interest as permitted by law; and

g. for any other relief the Court deems just and proper.

DATED: February 22, 2023

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